

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

JANE DOE on behalf of herself and her minor child, SARAH DOE,

Plaintiff,

vs.

2:21-CV-05012 (FB) (SIL)

FRANKLIN SQUARE UNION FREE SCHOOL DISTRICT, and MARY T. BASSETT, in her official capacity as Commissioner of the New York State Department of Health,

Defendants.

NOTICE OF MOTION

PLEASE TAKE NOTICE, that defendant Mary T. Bassett, M.D., M.P.H., sued in her official capacity as Commissioner of the New York State Department of Health (“DOH”) by her attorney, LETITIA JAMES, Attorney General of the State of New York, shall move this Court before the Honorable Frederic Block, United States District Judge, at the United States Courthouse for the Eastern District of New York located at 225 Cadman Plaza East, Brooklyn, New York 11201, at a date and time to be determined by the Court, for an Order dismissing the Amended Complaint in the above-captioned action filed on January 20, 2022 (ECF No. 33, the “Amended Complaint”), in its entirety and with prejudice, pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(1) for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to state a claim on which relief can be granted.

PLEASE TAKE FURTHER NOTICE, that in support of its motion to dismiss, DOH shall rely upon the memorandum of law in support of its motion to dismiss the Amended Complaint, dated February 25, 2022; the Declaration of Todd A. Spiegelman in support of DOH’s motion to dismiss the Amended Complaint, dated February 25, 2022, and the exhibits attached thereto; the Amended Complaint; and all other pleadings and papers herein.

PLEASE TAKE FURTHER NOTICE, pursuant to this Court's Individual Practice Rule 2(D) and the Court's Order in this action dated January 21, 2022 (Minute Entry), any opposition papers to this motion to dismiss are due to be served on or before April 7, 2022; DOH's reply papers, if any, are due to be served on or before April 28, 2022; and DOH shall file all motion papers on or before April 28, 2022.

Dated: New York, New York
February 25, 2022

LETITIA JAMES
Attorney General of the
State of New York
Attorney for Defendant DOH Commissioner
By:

/S/
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